GOVERNEMNT OF ANDHRA PRADESH
ABSTRACT

Public Servants –Commercial Taxes Department– Disciplinary action initiated against Sri K.Raju, Assistant Commissioner (Commercial Tax) (Charged Officer-2) (now Retired) for non collection of balance tax from M/s.NAFED, Chennai Branch - Regular Inquiring Officer appointed -Inquiry conducted under rule 20 of Andhra Pradesh Civil Services (Classification Control & Appeal) Rules, 1991 – Inquiry Report communicated – Representation filed by Charged Officer – Further action dropped – orders – Issued.

REVENUE (VIGILANCE-II) DEPARTMENT

G.O.Rt.No.538 Dated:05-05.2016.

Read the following:-

Ref:-1. From CCT Ref No.V1/1532/09, dt.19-02-2010.
2. G.O.Rt.No.360, Rev (Vig.I) Dept., dated 23-03-2011 (CO-2).
3. Representations of Sri K.Raju, AC (CT) (CO-2) (now Retd.) dated : NIL
4. G.O.Rt.No.692, Rev (Vig.I) Dept., dated 13-06-2011(IA Appt).
5. From CCT Ref No.V1/1532/09, dt.30-05-2013 along with Ref No.Addl.CCT (Legal)Peshi/11-1 & 2, dt.16-05-2013 (IRs).
6. Govt.Memo No.9213/Vig.I(1)/2010-8, dt.21-06-2013 (CO-2).
7. Rep.of Sri K.Raju, former AC (now Retd) dt.1-8-13 & 28-5-15.
8. Memo No.9213/Vig.II(3)/2010-15, dated : 06-06-2015.
9. From CCT,AP,Hyderabad, Ref No.V1/1532/09, dt.08-10-2015.

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ORDER:

Whereas, in the ref 1st read above, the Commissioner of Commercial Tax brought to the notice of the Government that Sri K.Srinivasa Rao, while working as Deputy Commissioner, Guntur (Charged Officer-1) had failed to comply with instructions issued by higher authorities in collecting the balance of the disputed tax of Rs.1.06 crores from the dealer M/s.NAFED, (National Agricultural Co-operative Marketing Federation of India Ltd.,) a Central Govt.Undertaking when no stay orders are granted as per the list of appeals communicated by Appellate Deputy Commissioner, Guntur to the Charged Officer-I and exhibited gross negligence in discharging his duties and recommended to initiate disciplinary action against Charged Officer-1.

2. Whereas, the Government after examining the proposal, initiated disciplinary action against Sri K.Srinivasa Rao, former Deputy Commissioner, Guntur Charged Officer-1 & framed charges. The Commissioner of Commercial Tax, while submitting remarks on the representation submitted by Charged Officer-1, stated that another officer, Sri K.Raju, Assistant Commissioner (Commercial Tax) LTU, Guntur-I (Charged Officer-2) is also responsible for non collection of balance of the disputed tax of Rs.1.06 crores from M/s.NAFED and that the explanation submitted by Charged Officer-2 to the memo issued by Commissioner of Commercial Tax is not satisfactory & requested to initiate disciplinary action against Charged Officer-2 also. The Government after examining the proposal, have initiated disciplinary action against Sri K.Raju, Assistnat Commissioner (Commercial Tax) LTU, Guntur-I (Charged Officer-2) (now retired) and framed the following three charges against Charged Officer-2. In the meantime, the Charged Officer-2 had retired from service on 30-06-2011 on superannuation.

Charge: I

That Sri K.Raju, while working as Assistant Commissioner (Commercial Tax) (LTU), Guntur-I Division, during 17-06-2008 to 21-10-2009, has shown gross negligence in discharge of his duties and has not initiated coercive steps for recovery of huge demands, and for collecting the disputed tax amount of Rs.106.56 lakhs in the case of M/s.NAFED, Chennai Branch, even though there were no stay orders on the collection despite specific directions issued by Commissioner of Commercial Tax.

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This is serious violation of instructions of higher authorities, indicating gross & intentional negligence towards his duties.

Charge II

That during the aforesaid period Sri K.Raju, while working as Assistant Commissioner (Commercial Tax) (LTU), Guntur-I Division, has shown gross negligence in discharge of his duty and not taken coercive steps for recovery of huge demands and not initiated action under RR Act on M/s.NAFED, Chennai Branch, on the ground that it was a Central Government undertaking. He merely issued notices to dealer, and sent a team to Chennai to pursue the tax balances, instead of collecting the demand of Rs.1.06 crores for 2005-06 & 2006-07 from 17-06-2008 / 05-08-2008 until Appellate Deputy Commissioner remanded the appeals on 21-10-2009, even after issuing of specific instructions from Commissioner of Commercial Taxes Office. This is serious violation of instructions of higher authorities, indicating gross and intentional negligence towards his duties.

Charge III

That during the aforesaid period the Charged Officer-2, has shown gross negligence in discharge of his duties and not taken coercive steps to recover huge demands and not initiated action under RR Act on M/s. NAFED, Chennai Branch. Actually the above dealer, is a country wide firm with branches in all states including AP & Chennai, and the attachment of AP branch account any time between 17-06-2008 / 05-08-2008 (time of maturity of tax demands) upto Appellate Deputy Commissioner remand order dated: 21-10-2009, with the help of Commercial Tax Office Srinagar Colony Circle, would have solved the problem and the taxes should have been collected. But he has failed to take coercive steps for recovery of huge demands and not initiated action under RR Act on M/s.NAFED, Chennai Branch. This type of inaction, dereliction and negligence in duty in not collecting taxes from an established firm even while the dealer had not applied for stay of collection of taxes, indicated gross and intentional negligence towards his duties. Thus Charged Officer has contravened Rule (3) (1) & (2) of Conduct Rules.

3. Whereas, Sri. K.Raju, Assistant Commissioner (Commercial Tax) LTU, Guntur-I (Charged Officer-2), has submitted his explanation/representation, vide ref 3rd read above, denying the charges framed against him. The Government after examining the representation of Charged Officer, ordered for regular inquiry into matter by appointing Regular Enquiry Officer, vide ref 4th read above. The Inquiry Officer has conducted the enquiry and submitted separate Inquiry Reports on each Charged Officer, vide ref 5th read above, holding that all the charges framed against Sri. K.Raju, AC (CT) LTU, Guntur-I (Charged Officer-2) as held proved.

4. The Government vide ref 6th read above, communicated the Inquiring Authority report to Charged Officer, calling for representation as to why further action should not be taken under Rule 9 of Andhra Pradesh Revised Pension Rules within 10 days. The charged officer-2 Sri. K.Raju, Assistant Commissioner (Commercial Tax) LTU, Guntur-I, submitted a representation denying all the three charges, stating that he had issued an urgent notice to dealer on 19-8-08 and as per the request made by him, the Deputy Commissioner (Commercial Tax) (Charged Officer-1), has accorded permission to depute Sri G.Nageswara Rao, Assistant Commercial Tax Officer and Sri V.Eswar Prasad, Junior Assistant vide Lr.dt.5-8-08, to go to NAFED, Chennai Office to pursue the matter, and in pursuance of which, the dealer had paid part tax of Rs.6.30 lakhs on 16-08-2008. Further vide Lr. Dated: 05-09-2008 while informing that the dealer does not possess any bank account or any property in Andhra Pradesh State, therefore he has requested the Deputy Commissioner (Commercial Tax), Guntur – I, (Charged Officer -1) to accord permission to collect the balance tax under CRR Act. Since the dealer is a Central Government undertaking, he has not initiated action under CRR Act. Further consequent on allowing the appeals by Appellate Deputy Commissioner, Guntur-I, he has passed fresh assessment orders (dated:12-03-2010) exempting the turnovers and eliminated the tax demands based on Appellate Deputy Commissioner orders dated: 21-10-2009, hence he has requested to drop further action against him.

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5. In the ref 9th read above, the Commissioner of Commercial Tax has finally stated in respect of both the Charged Officers, there is no loss of revenue and the issue is pending before Hon`ble STAT, and this aspect may also be taken into consideration before passing orders.

6. Government after carefull examination of the matter keeping in view of the explanation offered by Sri. K.Raju, Assistant Commissioner (Commercial Tax) LTU, Guntur-I (Charged Officer-2) and report submitted by the Commissioner of Commercial Taxes, have observed that there is no loss of revenue caused to Government and the Charged Officer-2, Sri.K.Raju has already been retired from service on 30.06.2011, hence it has been decided to drop further action against Sri. K.Raju, Assistant Commissioner (Commercial Tax) LTU, Guntur-I (Charged Officer-2). Accordingly, Government hereby order to drop further action against Sri. K.Raju, Assistant Commissioner (Commercial Tax) LTU, Guntur-I (Charged Officer-2) in the matter.

7. The Commissioner of Commercial Taxes, Andhra Pradesh, Hyderabad is requested to take further action, accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

AJEYA KALLAM
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To,
Sri. K.Raju, Assistant Commissioner (Commercial Tax) LTU,
Guntur-I (Charged Officer-2). (through the Commissioner of Commercial Tax, Andhra Pradesh, Hyderabad)
The Commissioner of Commercial Tax, Andhra Pradesh, Hyderabad.
The Deputy Commissioner (Commercial Tax), Guntur.
SC/SF

//FORWARDED :: BY ORDER//

SECTION OFFICER